

TEXT OF PROPOSED REGULATIONS

In the following text, strikethrough indicates deleted text; underlining indicates added or amended text.

3043.5. Credit Earning Special Assignments.

Subsections (a) through (d) are unchanged.

Subsection 3043.5(e) is amended to read:

(e) On-the-job injuries. The chief medical officer shall document inmate injuries occurring on the job shall be documented by the chief medical officer. With the exception of inmates assigned to Work Group F, Ssuch injured inmates shall retain their existing work group status until medically approved to return to their work assignment. Inmates assigned to Work Group F shall revert to Work Group A-1 effective on the date the chief medical officer determines the on-the-job injury excludes the inmate from conservation camp placement providing the chief medical officer's exclusion determination is within 29 days following the date of the inmate's removal from the conservation camp assignment. If the chief medical officer's exclusion determination is not within 29 days following the date of the inmate's removal from the conservation camp assignment, the inmate shall revert to Work Group A-1 effective the 30th day following the date of the inmate's removal from the conservation camp assignment.

(f) Medical or psychiatric treatment categories "H", "I", and "N". An inmate assigned to category "H", "I", or "N" is not capable of performing a work or training assignment and shall, except where otherwise prohibited by law, be placed in Work Group A-1.

(g) Department of Mental Health (DMH) Penal Code (PC) sections 1364, 2684 and 2690 placements. An inmate transferred to DMH pursuant to PC sections 1364, 2684 or 2690 shall be placed in a work group as provided in section 3043.6(b).

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2933, 2933.3, 5054 and 5068, Penal Code.

3043.6. Impact of Transfer on Credit Earning.

(a) Non-adverse transfers.

Subsection 3043.6(a)(1) is amended to read:

(1) A non-adverse transfer is movement of an inmate to a less restrictive institution or program where the security level is the same or lower, movement to a secure perimeter from a non-secure camp or Level 1 (Minimum Support Facility) setting by order of the prison administration for non-adverse reasons or transfers from reception centers.

Subsection 3043.6(a)(2) is amended to read:

(2) With the exception of inmates assigned to Work Group F, An inmate transferred for non-adverse reasons shall retain their work/training and privilege group status. Inmates assigned to Work Group F shall revert to Work Group A-1 effective the date removed from camp assignment.

(3) An inmate in a vocational/training program at the sending institution shall be assigned the same or similar program at the receiving institution unless the program has no vacancy, or the program is unavailable. The inmate shall be merged into the receiving institution waiting list which shall include:

(4) The receiving facility's initial classification committee shall grant appropriate time credits for the period of program interruption.

(A) First, those inmates already placed into the program at any institution. Such inmates shall be ranked by length of time in the program, starting with the inmate with the most time in the program.

(B) Second, those inmates approved for the program but never assigned. Such inmates shall be ranked by length of time approved, starting with the inmate approved for the longest period of time.

(b) Transfers to Department of Mental Health (DMH).

(1) Penal Code (PC) sections 2684 and 2690 transfers. An inmate transferred to the DMH pursuant to PC sections 2684 and 2690 is not capable of performing a work or training assignment. Such an inmate shall be classified by the sending facility before the transfer and placed in Work Group A-1.

(2) Penal Code section 1364 transfers. An inmate transferred to DMH to participate in the voluntary experimental treatment program pursuant to Penal Code section 1364 shall participate in a full-time credit qualifying work/training assignment in order to earn full worktime credit.

(c) Adverse transfers.

Subsection 3043.6(c)(1) is amended to read:

(1) Adverse transfers are defined ~~in section 3375(f)(1) of these regulations~~ as a transfer resulting from any in-custody documented misbehavior or disciplinary that may or may not have resulted in an inmate's removal from current program.

Subsection 3043.6(c)(2) is amended to read:

(2) If an inmate is removed from a program for adverse reasons and is subsequently exonerated of the charges, the credit earning status shall be designated as though the inmate had not been removed from the assignment.

Existing subsection 3043.6(c)(2) is renumbered to 3043.6(c)(3) and amended to read:

(23) Effective on the date of transfer an inmate in Work Group A-1 or F who receives an adverse transfer shall be reclassified to Work Group A-2 by the sending institution. The inmate shall remain in Work Group A-2 until reclassified by the receiving institution.

Existing subsection 3043.6(c)(3) is renumbered to new subsection 3043.6(c)(4).

(34) An inmate in Work Group A-2, C or D at the time of transfer shall be retained in that group status until reclassified at the receiving institution.

(d) Reception center or layover status.

(1) An inmate being processed in reception centers or an inmate on layover (en route) status in any institution shall only be assigned to half-time work/training programs. Exception to this policy requires approval from the deputy director, institutions.

(2) An inmate's work on a half-time assignment while undergoing reception center processing shall be recorded on the reception center's timekeeping log form. This form shall be completed by the work supervisor and signed by the inmate. A copy shall be issued to the inmate upon written request.

(e) Special housing unit transfers.

(1) Inmates found guilty of a credit loss offense which could result in a security housing unit (SHU) determinate term shall be evaluated for SHU assignment by a classification committee.

(2) If SHU assignment is recommended, the committee shall place the inmate in Work Group D-2 effective the date that the inmate was administratively segregated for the instant offense.

Subsection 3043.6(f) is amended to read:

(f) Community Correctional Center (CCC) transfers. Transfers of inmates approved for a CCC program are considered non-adverse. With the exception of inmates assigned to Work Group F, and the inmates shall ~~regain~~ retain their current work group status while en route to a program. Inmates assigned to Work Group F shall revert to Work Group A-1 effective the date removed from the camp assignment.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 1364, 2684, 2690, 2933, 2933.3, 5054 and 5068, Penal Code.

3044. Inmate Work and Training Incentive Groups.

[Instructions to printer – Repeal the printed Inmate Time Card, CDC 191 (Rev. 11/85)]

(a) Full-time and half-time defined.

(1) Full-time work/training assignments normally mean eight (8) hours per day on a five day per week basis, exclusive of meals.

(2) Half-time work/training assignments normally mean four (4) hours per day on a five day per week basis, exclusive of meals.

(b) Consistent with the provisions of section 3375 of these regulations, all assignments or reassignments of an inmate to a work/training incentive group shall be by a classification committee action in accordance with this section.

Subsection 3044(b)(1) is amended to read:

(1) Work Group F: Full-time conservation camp work assignment. Inmates eligible to earn day-for-day worktime credits under Penal Code section 2933 shall be awarded two days credit for each day of qualifying performance. An inmate's ability to earn two-for-one credit shall not begin until he/she is assigned and reports to an established position in the conservation camp setting. Conservation camp inmates eligible for two-for-one credit, as defined in this section, may be eligible for Work Group F credit during temporary removals from the conservation camp setting. Inmates who become ineligible for continued conservation camp placement for any reason shall be removed from Work Group F and assigned to an appropriate Work Group consistent with the remaining provisions of this section.

Existing subsection 3044(b)(1) is renumbered to 3044(b)(2).

(42) Work Group A-1: Full-time work/training assignment. Inmates eligible to earn Penal Code section 2933 worktime credits shall be awarded six months worktime credits for each six months full-time performance, one day credit for each day of qualifying performance. The work day shall not be less than six hours and the work week no less than 30 hours. Those programs requiring an inmate to participate during other than the normal hours of eight-hours-per-day, five-days-per-week (e.g., 10-hours-per-day--four-days-per-week) or programs that are scheduled for seven-days-per-week, requiring inmate attendance in shifts (e.g., three days of 10 hours and one day of five hours) shall be designated as "special assignments" and require departmental approval prior to implementation. A CDC Form 128-B or E chrono shall be placed in the inmate's central file stating the hours of participation required for full-time sentence reduction credits. "Special assignment" shall be entered on the inmate timecard by the staff supervisor.

(A) Full-time educational and training program. Elementary school, high school, and vocational training programs require the same minimum hourly participation as the full-time work assignment.

(B) Combination programs qualifying as full-time. Any combination of half-time work, school or training program resulting in full-time assignment requires the same minimum participation as a regular full-time work assignment. Each combination half-time assignment requires the same minimum participation as a half-time work assignment.

(C) A full-time college program may be combined with a half-time work or vocational training program equating to a full-time assignment. The college program shall consist of 12 units in credit courses only leading to an associate degree in two years or a bachelors degree in four years.

(D) An inmate diagnosed by a physician and/or psychiatrist as totally disabled and therefore incapable of performing a work/training assignment, shall remain in Work Group A throughout the duration of their total disability.

(E) An inmate when diagnosed by a physician and/or psychiatrist as partially disabled shall be assigned to a work/training assignment within the physical and/or mental capability of the inmate as determined by the physician and/or psychiatrist, unless changed by disciplinary action.

Existing subsection 3044(b)(2) is renumbered to 3044(b)(3).

(23) Work Group A-2: Involuntarily unassigned.

An inmate willing but unable to perform in a full-time assignment shall receive three months credit for each six months served, or one day for each two days served, in the following status:

(A) The inmate is placed on a waiting list pending availability of a full-time work/training assignment.

(B) An unassigned inmate awaiting adverse transfer to another institution.

Existing subsection 3044(b)(3) is renumbered to 3044(b)(4).

(34) Work Group B: Half-time work/training assignment. Half-time programs shall normally consist of a work/training assignment of four hours per workday, excluding meals, five-days-per-week, or full-time enrollment in college consisting of 12 units in credit courses leading to an associate or bachelor degree. The work day shall be no less than three hours and the work week no less than 15 hours.

Existing subsection 3044(b)(4) is renumbered to 3044(b)(5).

(45) Work Group C: Voluntary unassigned. Zero credit.

(A) An inmate who refuses to accept or perform in a work/training assignment, or who is placed on non-credit earning status by a classification committee for frequent work/training violations, shall earn zero worktime credits.

(B) An inmate shall remain in zero credit earning status until classified for placement in a credit qualifying work/training assignment (A-1 or B), or placement on an assignment waiting list (A-2). An inmate must submit a written request for reclassification to be considered for assignment and removal from Work Group C. The inmate shall be scheduled for a hearing within 30 days of receipt of the written request.

Existing subsection 3044(b)(5) is renumbered to 3044(b)(6).

(56) Work Group D-1: Indeterminate lockup status. An inmate assigned to a segregated housing program, shall be awarded three months credit for each six months served or one day credit for two days served.

(A) Administrative segregation (AD SEG).

(B) Security housing unit (SHU).

Existing subsection 3044(b)(6) is renumbered to 3044(b)(7).

(67) Work Group D-2: Serving SHU term or voluntarily unassigned in SHU or PHU. Zero credit.

(A) An inmate assigned to a determinate SHU term which included a forfeiture of credits shall not be placed in a credit earning assignment during the period of credit forfeiture or 180 days, whichever is less, starting from the date of change in custodial classification. An inmate confined in a secure housing unit for a division A-1 offense, as designated in section 3323(c) of these regulations, and which included great bodily injury on a non-prisoner shall not receive participation or work-time credits for up to 360 days. Upon completion of the period of credit forfeiture, the inmate shall be re-evaluated by a classification committee.

(B) An inmate's status in Work Group D-2 may be extended, in up to six-month increments, by a classification committee in unusual cases where no credit qualifying program can be assigned the inmate without causing a substantial risk of physical harm to staff or others. At the end of the designated period (six months or less), the determination shall be reviewed by an institution classification committee.

(C) An inmate in SHU or Protective Housing Unit (PHU) who refuses to accept or perform work/training assignments.

Existing subsection 3044(b)(7) is renumbered to new subsection 3044(b)(8).

(78) Work Group U: Unclassified. An inmate undergoing reception center processing is in this status from the date of their reception until classified at their assigned institution. An inmate on unclassified status shall be granted three months credit for each six months served or one day credit for each two days served.

Subsections 3044(c) to 3044(i) are unchanged.

NOTE: Authority cited: Sections 2700, 2701 and 5058, Penal Code. Reference: Sections 2932, 2933, 2933.3, 2935, 5005, 5054 and 5068, Penal Code; and *In re Monigold*, 205 Cal.App.3d 1224.